

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Brenda Darlene Dewitt,)	Civil Action No.: 3:11-cv-03395-MGL
)	
Plaintiff,)	
)	
v.)	<u>OPINION AND ORDER</u>
)	
Michael J. Astrue,)	
Commissioner of Social Security,)	
)	
Defendant.)	
)	

Through this action, Brenda Darlene Dewitt (“Plaintiff”) seeks judicial review of the final decision of the Commissioner of Social Security (“Commissioner”) denying her claim for Disability Insurance Benefits (“DIB”).

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Joseph R. McCrorey for pretrial handling. On February 22, 2013, the Magistrate Judge issued a Report and Recommendation in which he determined that the Commissioner's decision was not supported by substantial evidence. Accordingly, the Magistrate Judge recommended that the case be remanded to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g) for further administrative proceedings. Specifically, the Magistrate Judge indicated that this action should be remanded to the Commissioner for a determination of Plaintiff's Residual Functional Capacity (“RFC”), an evaluation of the opinions of Plaintiff's treating physician in light of all of the evidence and applicable law, and a consideration of Plaintiff's remaining allegations of error. (ECF No. 25 at 15.) Plaintiff filed no objections to the Report and Recommendation. On March 11, 2013, the Commissioner filed a Notice of Not Filing

Objections to the Report and Recommendation of Magistrate Judge. (ECF No. 26.)

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to him with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir.2005).

The Court has reviewed the record in light of the Report and Recommendation and concurs in the recommendation of the Magistrate Judge. The Court adopts the Report and Recommendation and incorporates it herein by reference. For the reasons set forth herein and in the Report and Recommendation, the decision of the Commissioner to deny benefits is **reversed** and the action is **remanded** under sentence four of 42 U.S.C. § 405(g) for further administrative action.

IT IS SO ORDERED.

/s/ Mary G. Lewis
United States District Judge

March 15, 2013
Spartanburg, South Carolina